

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ZIAD KABBAN; TAREK KABBAN,
Plaintiffs,

vs.

ASLAN RESIDENTIAL V, LLC;
PHH MORTGAGE CORPORATION;
THE BANK OF NEW YORK; NDEX
WEST, LLC; and DOES 1 through
100, inclusive,

Defendants.

CASE NO. 13-CV-01409-H
(BLM)

**ORDER DENYING
PLAINTIFFS' MOTION FOR
TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY
INJUNCTION**

On June 17, 2013, Plaintiffs Ziad Bakkan and Tarek Kabban ("Plaintiffs") filed a complaint against Defendants alleging causes of action for violation of the federal Truth in Lending Act, 15 U.S.C. §§ 1601, et seq., violation of the federal Real Estate Settlement and Procedures Act, 12 U.S.C. §§ 2601 et seq., violation of California Civil Code § 2923, quiet title, negligence, and declaratory relief. (Doc. No. 1.) On August 6, 2013, the Court granted Defendant Aslan Residential V, LLC's ("Aslan") Motion to Dismiss. (Doc. No. 22.) On November 27, 2013, Plaintiffs filed a Motion for Default Judgment against Defendants PHH Mortgage Corporation and The Bank of New York. (Doc. No. 25.) On December 5, 2013, Plaintiffs filed an ex parte motion for a temporary restraining order ("TRO") seeking to enjoin Aslan from evicting Plaintiffs

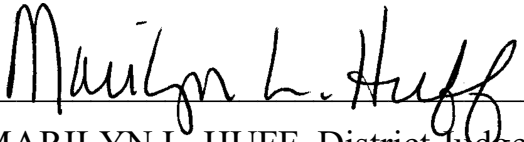
1 from their residence while their motion against PHH Mortgage Corporation and The
2 Bank of New York is pending. (Doc. No. 26.) Aslan filed an opposition. (Doc. No.
3 28.)

4 The standard for a temporary restraining order is “substantially identical” to the
5 standard for granting a preliminary injunction. Stuhlbarg Int’l Sales Co. v. John D.
6 Brush & Co., 240 F.3d 832, 839 n.7 (9th Cir. 2001). A preliminary injunction is “an
7 extraordinary remedy” that may only be awarded upon a clear showing that the plaintiff
8 is entitled to such relief.” Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 22
9 (2008); accord Earth Island Inst. v. Carlton, 626 F.3d 462, 469 (9th Cir. 2010). A party
10 seeking preliminary relief “must establish that he is likely to succeed on the merits, that
11 he is likely to suffer irreparable harm in the absence of preliminary relief, that the
12 balance of equities tips in his favor, and that an injunction is in the public interest.”
13 Winter, 555 U.S. at 20. The court may apply a sliding scale test, under which “the
14 elements of the preliminary injunction test are balanced, so that a stronger showing of
15 one element may offset a weaker showing of another.” Alliance for the Wild Rockies
16 v. Cottrell, 632 F.3d 1127, 1131 (9th Cir. 2011); see also id. at 1132 (“The serious
17 questions approach survives the Winter decision when applied as part of the
18 four-element Winter test.”).

19 Having reviewed the parties' papers, the Court concludes that Plaintiffs have not
20 met their burden under the Winter factors. Accordingly, the Court denies Plaintiffs'
21 motion.

22 **IT IS SO ORDERED.**

23 DATED: December 13, 2013

24 
25 MARILYN L. HUFF, District Judge
26 UNITED STATES DISTRICT COURT
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